



# MODEL STORMWATER UTILITY ORDINANCE DESIGNED FOR CHICOPEE, MASSACHUSETTS

## ARTICLE 1

### Import of Regulations and General Provisions

#### § 1. Purposes

The purposes of the Stormwater Utility are:

- (a) to develop and implement on a watershed basis a comprehensive stormwater management plan and regulatory program to minimize the adverse effects of stormwater on water resources.
- (b) to control point and non-point sources of stormwater discharges in order to meet the water quality standards for the rivers, streams, lakes and wetlands in the City and its vicinity.
- (c) to require the use of non-structural and best management practices (BMPs), including infiltration of stormwater where feasible and reduction of the discharge of stormwater to combined sewer outlets (CSOs), in order to prevent discharges of untreated wastewater and stormwater directly to rivers, streams, lakes and wetlands, and to control peak stormwater discharges.
- (d) to provide for effective management and financing of the stormwater program within the City; and
- (e) to establish reasonable stormwater service charges based on the property owner's contribution of stormwater runoff to the public system and various waterbodies.

#### § 2. Stormwater Charge

- (a) In order to accomplish these purposes, each property owner shall pay an annual stormwater service charge.
- (b) The City's stormwater service charges and assessments shall be fair and reasonable, bear a substantial relationship to the cost of providing services and facilities, be proportional to the amount of stormwater contributed by each property owner. Such stormwater charges shall be established in amounts which will provide sufficient funds, proportionately calculated and assessed, to construct and maintain the facilities which need to be installed in the City. Rate studies shall be conducted periodically to ensure the equity of the service charges.
- (c) The Board of Sewer Commissioners within the Department of Public Works (DPW) shall estab-

lish a Stormwater Utility Review Committee. The Review Committee shall review and make recommendations to the stormwater utility chief on any abatement application filed by an aggrieved property owner under G.L. c. 83 §16E. Subject to review and approval by the City Solicitor, the DPW Director is authorized to adopt and promulgate policy and procedures defining the Stormwater Utility Review Committee functions and the abatement process.

§ 3. This ordinance is enacted pursuant to the authority of G.L. c. 40, §8L and c. 83 §§1, 10, 11, 14, 15 and 16.

## **ARTICLE 2**

### **Definitions**

For the purpose of this Chapter, the words and phrases shall be defined as follows, unless the context clearly indicates or requires a different meaning:

- (1) Abatement - any action taken to remedy, correct, or eliminate a condition within, associated with, or impacting a drainage system.
- (2) Approved plans - plans approved under Section [                      ] of the Chicopee City Code.
- (3) BMPs - Best Management Practices
- (4) Chief Administrative Officer - a person whose duties include general supervision and direction of the operation and administration of all departments, offices and bureaus of the City, with the exception of the Office of the Mayor.
- (5) City - the City of Chicopee.
- (6) CSO - Combined Sewer Overflow or Combined Sewer Outlet.
- (7) Aldermen - Board of Alderman of the City of Chicopee.
- (8) County - Hampden County, Massachusetts.
- (9) DEP - The Massachusetts Department of Environmental Protection.
- (10) Director - the City's Director of Public Works, or his designee.
- (11) Engineer - a person registered under appropriate Massachusetts law.
- (12) Equivalent Residential Unit (ERU) - a unit of measure which provides a basis for comparing the runoff generated by one parcel with that generated by another. An ERU is defined as the weighted average of impervious area for all single family and multifamily residential units in the City. The weighted average impervious area is determined to be 2000 square feet, and the weighted average shall be used for the purpose of all such computations. To compute the ERU's for any parcel, divide the parcel's impervious area by 2000. The ERU shall be used as the basis for computing monthly charges on residential and non-residential properties.
- (13) Facilities - various drainage works, including but not limited to, inlets, conduits, manholes, energy dissipation structures, channels, outlets, retention/detention basins, and other structural components of this nature.

- (14) Impervious area - surface areas on or in a parcel of real property, which prevents or severely restricts infiltration of stormwater into the earth.
- (15) Natural Outlet - Any outlet into a river, stream, lake, wetland, ditch, or other body of surface or ground water.
- (16) Order - the whole (or any part) of the final disposition (whether affirmative, negative, injunctive, or declaratory in form), of any matter issued by the City's Utility Bureau Chief or Director of Public Works, or person designated by them pursuant to any provision of this Chapter.
- (17) Chicopee Urban Stormwater Management Manual (CUSMM) - that document referenced in and made a part of Chapter \_\_\_ of the City Ordinances which, in part, outlines the engineering design criteria and permitting procedures for stormwater management within the City.
- (18) Person - any person, firm, individual, partnership, corporation, organization or association of any kind.
- (19) Pollution - the contamination or other alteration of the physical, chemical, or biological properties of any natural waters of the City, including change in temperature, taste, color, turbidity, or odor of the waters, or the discharge of any liquid, gaseous, solid, radioactive, or other substance into any such waters as will or is likely to create a nuisance or render such waters harmful, detrimental, or injurious to the public health, safety or welfare, or to domestic, commercial, industrial, agricultural, recreational, or other legitimate beneficial uses, or to livestock, wild animals, birds, fish or other aquatic life.
- (20) Premises - the lot, buildings, and appurtenances situated thereon.
- (21) Private - that property or facilities owned by individuals, corporations, and other organizations and not by a city, county, state, or federal government agency.
- (22) Public - that property or facilities owned by a city, county, state or federal government or agency thereof.
- (23) Stormwater - rainwater, surface runoff, snowmelt, and drainage.
- (24) Stormwater system - all facilities, man-made structures, and natural watercourses used for collecting and conducting stormwater to, through, and from drainage areas to and including points of final outlet. A stormwater system may include any and all of the following: inlets, conduits and appurtenant features, canals, creeks, lakes, channels, catch basins, ditches, streams, drainage wells, gulches, gullies, flumes, culverts, ciphons, retention or detention basins, dams, floodwalls, levees, and pumping stations.
- (25) Stormwater main drain or stormwater drain - a drain that carries stormwater, surface runoff, and drainage, but which excludes sanitary sewage and industrial wastes.
- (26) Stormwater Policies - policies or regulations adopted by DEP from time-to-time requiring use of non-structural practices and BMPs for the control and treatment of stormwater discharges.
- (27) Total Square Footage of Surface Area of Lot or Parcel of Real Property - the square footage of a parcel measured or estimated by using the outside boundary dimensions (in feet) to obtain the total enclosed square footage, without regard to topographic features of the enclosed

surface. The boundary dimensions in feet of the enclosed surface area may be established by any of the following methods:

- (a) On-site or photogrammetric measurements of the apparent outside boundary dimensions of the parcel of real property made by the City or on its behalf or through the Massachusetts Geographic Information System (GIS), or
  - (b) Computation of the area using dimensions of the parcel of real property, or existing area measurements which are set forth in the Assessor's public records, or either of these things.
- (28) Utility Bureau - the Stormwater Utility Bureau of the City of Chicopee.
  - (29) Utility Bureau Chief - the Director of Public Works, or the individual appointed to be the City Stormwater Utility Bureau Chief.
  - (30) Vacant land - a piece or parcel of land that is without any building, structure, appurtenance, or improvements. It does not mean recreation, green, or open space created around private or municipal facilities, or parcels connected thereto or contiguous with such facilities for such reason.

### **ARTICLE 3**

#### **Organization of Stormwater Utility Bureau**

- (1) There is hereby created a Stormwater Utility Bureau in the Department of Public Works of the City of Chicopee which, in coordination with the City Engineer and the City Finance Director, shall have the responsibility for planning, developing, and implementing stormwater management plans; financing, constructing, maintaining, rehabilitating, inspecting, and managing existing and new stormwater facilities; collecting fees and charges for the utility bureau; implementing and enforcing the provisions of legislation, ordinances, and regulations pertaining to the control of the adverse effects on the environment from stormwater discharges, and the carrying out of other related duties as directed by the Public Works Director. The Utility Bureau shall be administered by the Utility Bureau Chief.
- (2) Responsibilities - The Stormwater Utility shall be responsible for administering the following Ordinances, \_\_\_\_\_.

### **ARTICLE 4**

#### **Stormwater Systems**

- (1) The Utility Bureau shall monitor the design, operation, maintenance, inspection, construction, and use of all stormwater systems in the City. The Utility Bureau Chief shall be responsible for the design and construction of public stormwater facilities owned by the City and shall inspect, operate, and maintain them as prescribed herein. The Chief shall be responsible for plan approval and construction inspection of both private and public, non-city stormwater facilities.
- (2) The Utility Bureau may accept the responsibility for the operation and maintenance of private stormwater facilities only when such services have been agreed to, contracted for, and approved by the Board of Aldermen, and have been subject to the final review of the City Solicitor.

## **ARTICLE 5**

### **Private Facilities**

- (1) The property owner shall be responsible for stormwater drainage facilities located on private property. The owner shall clean and maintain the facility or channel, as required, to ensure efficient and proper operation of the facility, and shall obtain the City Engineer's or the Utility Bureau Chief's prior written approval for any proposed changes or alterations to any private stormwater drainage facilities that may substantially or adversely affect stormwater drainage to rivers, streams, lakes and wetlands.
- (2) The Utility Bureau Chief shall inspect stormwater facilities to ascertain that the facilities are functioning as designed and approved, and are properly maintained, based upon the severity of stormwater flooding and water quality problems.
- (3) On-site retainage of stormwater and implementation of other stormwater management measures to control the rate, volume and characteristics of stormwater discharge shall be required whenever appropriate as determined by the Utility Bureau.

## **ARTICLE 6**

### **Rules and Regulations**

In order to accomplish the purposes of this Chapter, the Utility Bureau Chief may make and enforce rules and regulations that are approved by the Aldermen, and are necessary and reasonable to protect the drainage facilities, improvements, and properties controlled by the Bureau, and to prescribe the manner of their use by any person or government entity; and to lessen the volume and to improve the water quality of stormwater discharged off public and private property in the City.

## **ARTICLE 7**

### **Capital Improvement Plan**

The Utility Bureau Chief shall operate within the City's capital improvement plan for the stormwater system. The capital improvement plan shall be a comprehensive document prepared periodically, and delineating the stormwater capital needs of the City.

## **ARTICLE 8**

### **Permits and Plan Review**

To construct, enlarge, alter, repair, relocate, demolish or connect with a storm main drain, natural watercourse, or other drainage facility, the property owner or operator shall first file an application and obtain a proper permit from the City as provided for in the CUSMM.

## **ARTICLE 9**

### **Rights of Entry for Survey, Examination, and Inspection**

After presenting proper credentials, and at any reasonable times, the employees of the Utility Bureau or its agents (including contractors and consultants and their employees) may enter upon lands within the City to make surveys and examinations to accomplish the necessary preliminary findings to establish a City master stormwater plan, and for detailed analyses to prepare final plans and specifications for the pro-

posed site improvements. In addition, any and all such employees or agents may enter upon any lands to inspect private facilities to ascertain their compliance with this Chapter.

## **ARTICLE 10**

### **Funding**

Funding for the Utility Bureau activities may include, but are not limited to, the following:

- (1) stormwater service charges.
- (2) permit and inspection fees.
- (3) special betterment assessments or connection fees.
- (4) direct charges (the cost of designing and constructing stormwater facilities, administrative costs and related expenses where the Utility Bureau designs, constructs, or contracts for the construction of such facilities).
- (5) Other income obtained from federal, state, local, and private grants or loans.

## **ARTICLE 11**

### **Stormwater Fund**

All revenues generated by or on behalf of the Utility Bureau, including stormwater service charges, permit and inspection fees, direct charges, and other income, and interest earnings on those revenues, shall be deposited in a stormwater revolving fund and used exclusively for Utility Bureau purposes.

## **ARTICLE 12**

### **Stormwater Service Charge**

- (1) A stormwater service charge is hereby imposed on each owner of a separate parcel of land within the City; provided, however, that no additional or special charge shall be imposed on lakes or public streets, boulevards, highways, expressways, alleys (private alleys excepted), viaducts, sidewalks, curbing, street crossings, grade separations, and any highway structures.
- (2) The Utility Bureau Chief, in accordance with the CUSMM, may reduce stormwater service charges on properties that have stormwater management facilities.
- (3) There shall be no stormwater service charge on vacant land.
- (4) All of the proceeds of this fee are deemed to be in payment for use of, and in receipt of benefits from, the City stormwater program by the real property on, and with respect to which, the charge is imposed on the owners.
- (5) The Utility Chief may charge a connection fee (or assessment) for new or expanded connections to cover the cost of administering the stormwater and assessments connection permit program, pay for any related municipal work, and pay for an expansion upgrade of the system necessary in order to add the new connections. This latter expense shall be apportioned

among the new users by number of ERUs as set forth in Article 13.

- (6) The Utility Chief may make assessments in accordance with G.L. c. 83 §15.

#### **ARTICLE 13**

##### **Monthly Charge Per Equivalent Residential Unit (ERU)**

- (1) The monthly charge per ERU shall be \$\_\_\_\_ effective October 1, 1999, and \$\_\_\_\_ effective October 1, 2000.
- (2) The Utility Bureau Chief shall prepare a list of all parcels (residential and non-residential) within the City, shall compute the number of ERUs per parcel, and charge a reasonable and equitable fee, according to the assigned ERU equivalence and site mitigation factors, if any; provided, however, that the Utilities Bureau Chief shall have the option to set a fixed minimum and maximum fee for residential parcels.

#### **ARTICLE 14**

##### **Collection of Stormwater Service Charge**

- (1) The Utility Bureau Chief shall establish the frequency of billing for the service charge based on an assessment of the most efficient, effective and equitable method of billing and collections available to the Utility.
- (2) The Utility Bureau Chief shall bill at least annually the stormwater service charge but no more than twelve (12) times in one calendar year. The Utility Bureau Chief is to assure that the most efficient and effective billing and collection techniques are being used. The Utility Bureau may add the stormwater service charge to the City's water and sewer fees.

#### **ARTICLE 15**

##### **Delinquent Charges**

All service charges and connection fees not paid within thirty (30) days after the bill is due, or that are not under active appeal, shall be considered delinquent.

All such charges and fees delinquent hereunder shall be subject to (1) an interest charge at the Massachusetts statutory rate, and (2) a rebilling charge covering administrative costs in accordance with this Chapter, and shall constitute a lien upon the real property affected, from the date charges and fees are incurred. Charges and fees which remain unpaid for a period of sixty (60) days may be reported to the Aldermen for assessment against the real property. In the alternative, the Aldermen may direct the City Solicitor to file suit thereon, and to collect all such unpaid charges and fees, including reasonable attorney's fees and charges.

#### **ARTICLE 16**

##### **Emergencies and Abatement**

In case of an emergency, the Utility Bureau Chief may direct that action be taken immediately to

correct the condition or abate the activity to protect the public health, safety, and welfare. The Utility Bureau may perform the required work and charge the owner for all such related costs.

## **ARTICLE 17**

### **Flooding; Liability**

Floods from stormwater runoff may occur which exceed the capacity of storm drainage facilities constructed, operated, or maintained by funds made available under this Chapter. This Chapter shall not be construed or interpreted to mean that property subject to the fees and charges established herein will always (or at any time) be free from stormwater flooding or flood damage, or that stormwater systems capable of handling all storm events can be cost-effectively constructed, operated, or maintained. Nor shall this Chapter create any liability on the part of, or cause of action against, the City, or any official or employee thereof, for any flood damage that may result from such storms or stormwater runoff. Nor does this Chapter purport to reduce the need or the necessity for obtaining flood insurance by individual property owners.

## **ARTICLE 18**

### **Discharge of Polluting Matter in Natural Waters Prohibited**

- (1) It shall be unlawful for any person to drain, deposit, place or otherwise discharge into any natural outlet or stormwater system within the City, or to cause or permit to be drained, deposited, placed or otherwise discharged into such waters, any organic or inorganic matter which causes or tends to cause pollution.

The following materials when discharged to the stormwater system are found to contribute to a state of pollution:

- (a) Petroleum products, including but not limited to oil, gasoline, and grease
- (b) Solid Waste (as defined in City Code Chapter 28)
- (c) Pet Waste
- (d) Chemicals
- (e) Paints
- (f) Soaps
- (g) Laundry Waste
- (h) Steam Cleaning Waste
- (i) Pesticides, Herbicides or Fertilizers
- (j) Degreasers, Solvents
- (k) Heated Water
- (l) Sanitary Sewage
- (m) Chemically Treated Cooling Water
- (n) Antifreeze, and other Automotive Products
- (o) Lawn Clippings, Leaves, Branches, etc.
- (p) Animal Carcasses
- (q) Silt
- (r) Acids or Alkalis
- (s) Recreational Vehicle Waste
- (t) Dyes
- (u) Construction Materials



- (v) Any groundwater which contains phosphorous or nitrogen concentrations greater than the surface water into which the groundwater is discharged
- (w) Any water which exceeds the state surface water standards
- (x) Toxic or Poisonous Solids or Liquids
- (y) Solids in such quantities or of such size capable of causing interference or obstruction to the flow in the City's stormwater system.

- (2) It shall be unlawful to wash any public or private streets, buildings, sidewalks or parking areas, unless all visible debris and sediments have been removed prior to washing. If the removal of the debris and sediments is not feasible (as determined by the Utility Bureau Chief), then the street, building, etc. may only be washed with the Utility Bureau Chief's prior written approval, which may include requirements to clean the affected drainage pipelines or provide treatment of washwater runoff to prevent downstream pollution. Only water may be used for washing purposes.

## **ARTICLE 19**

### **Stormwater Connection Permits**

A permit shall be required from the Utility Bureau Chief for any connection from private or public property to the stormwater system. The Utility Bureau Chief may condition the permit to require the installation of BMPs as recommended under the DEP Stormwater Policies.

Where federal or state permits are required for the discharge of stormwater, the Utility Bureau Chief shall have the right to impose additional requirements as provided in this Chapter. Application for stormwater connection permits and accompanying plans shall be signed by an engineer.

## **ARTICLE 20**

### **Public Education**

The Utility Bureau Chief shall provide information to property owners pertaining to the use of non-structural practices recommended in the Stormwater Policies.

## **ARTICLE 21**

### **Correction and Discontinuance of Prohibited Discharge**

- (1) The Utility Bureau Chief may order the correction of any unsafe, nonconforming or unauthorized condition which is in violation of the Stormwater Policies, any provision of this code or regulation adopted hereunder. The Utility Bureau Chief may also order the discontinuance of any activity causing such condition.
- (2) Whenever the Utility Bureau Chief orders the installation of BMPs or the correction or discontinuance of any condition or activity on any premises pursuant to Section 31.20(1), the Utility Bureau Chief shall notify the owner or other person responsible for such condition or activity in writing which notice shall state the nature of the violation, direct the person to correct or discontinue the condition or activity, and provide a reasonable time limit for the satisfactory correction thereof. The offender shall, within the time period stated in such notice, permanently cease or correct all violations. Failure to comply with such order shall constitute a violation of the provisions of this ordinance.

## **ARTICLE 22**

### **Emergency Conditions Requiring Immediate Action**

Notwithstanding any other provisions of this Chapter, whenever the Utility Bureau Chief determines that conditions or activities exist requiring immediate action to protect the public health, safety, or welfare, he or his designee is authorized to enter at all reasonable times in or upon any property for the purpose of testing, inspecting, investigating, measuring, sampling and correcting such emergency conditions. The Utility Bureau Chief may order the immediate discontinuance of any activity which causes or tends to cause the emergency condition. Failure to comply with such order shall constitute a separate violation of this ordinance.

## **ARTICLE 23**

### **Liability for Pollution Abatement**

Any person responsible for pollutant discharge into any natural waters or stormwater systems and who fails to correct any prohibited condition or discontinue any prohibited activity at the Utility Bureau Chief's request shall be responsible to pay the necessary expenses incurred by the City in carrying out the pollution abatement, including any expenses incurred in testing, measuring, sampling, collecting, removing, containing, treating, and disposing of the pollutant materials.

## **ARTICLE 24**

### **Injunctive Relief Prohibiting Discharge**

The City may, immediately upon discovering an ongoing or potential discharge of pollutants into the City's natural waters or stormwater system in violation of this Chapter, petition the District Court or the Hampden County Superior Court, or the Federal District Court, for a temporary or permanent restraining order or preliminary injunction to halt or prohibit such discharge. Prior to the filing of such petition, the Utility Bureau Chief shall send notice to the offender of the City's intention to file such action, but in cases of emergency such notification shall not be a condition precedent to the City's petitioning for and obtaining injunctive relief.

## **ARTICLE 25**

### **Penalties**

- (1) Any person who violates any of the provisions of this Chapter shall be punished as provided in Section 1.08 of the City Code. Each and every day on which such person continues to violate the provisions of this Code after having been notified of such violation shall constitute a separate offense.
- (2) Any person who violates any provision of this ordinance shall be subject to a civil penalty of up to \$1,000 per day for each day that such person is in violation of this ordinance.
- (3) Any person who causes or allows an unauthorized discharge, or who otherwise violates the provisions of this Chapter, may be required to appear before the Code enforcement Board for enforcement proceedings pursuant to Chapter 5 of the City ordinance.

- (4) The remedies and penalties provided in this Ordinance are not exclusive, and the City may seek whatever other remedies are authorized by statute, at law or in equity, against any person who violates the provisions of this Ordinance.

## **ARTICLE 26**

### **Appeal Procedure**

- (1) Any person aggrieved by a determination of the Utility Bureau Chief, or his designee that such person is in violation of this Ordinance shall have the right to a review by the Board of Aldermen in accordance with the procedures set forth in [ ] of the City Code.

<sup>5</sup> See Appendix III.

